

STATE WATER CONTROL BOARD ENFORCEMENT ACTION

A SPECIAL ORDER BY CONSENT

ISSUED TO

**The Town of Victoria
West Wastewater Treatment Plant
Permit Number VA0020176**

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §§ 10.1-1185 and 62.1-44.15(8a), between the State Water Control Board and the Town of Victoria for the purpose of resolving certain violations of environmental law and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the State Water Control Board, a permanent citizen board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “Order” means this document, also known as a Consent Special Order.

6. “Town or Victoria” means the Town of Victoria located in Lunenburg County, Virginia.
7. “Facility” means the West Wastewater Treatment Plant.
8. “SCRO” means the South Central Regional Office of the DEQ, located in Lynchburg, Virginia.
9. “VPDES” means the Virginia Pollution Discharge Elimination System.
10. “Permit” means VPDES Permit number VA0020176 issued to the Town on August 29, 2003, which expires on August 28, 2008.

SECTION C: Findings of Facts and Conclusions of Law

1. The Town owns and operates the Facility located in Victoria, Virginia. The Facility is the subject to the Permit, which allows the Town to discharge treated wastewater into Couches Creek in the Chowan River Basin in strict compliance with the terms, limitations, and requirements delineated in the Permit.
2. Based on Department records the DEQ issued Notice of Violations (“NOV”) numbers W2003-03-L-0001 on March 24, 2003, W2003-04-L-0005 on April 17, 2003, W2003-05-L-0003 on May 8, 2003, and W2003-07-L-0002 on July 18, 2003, for the following violations:
 - a. Exceedance of the Ammonia Nitrogen limit for the months of January, February, March, and May 2003; and,
 - b. Failure to submit a plan of action after three consecutive months of exceeding the 95 percent design flow capacity in contravention of Part I D 5 of the Permit.
3. The Town recently installed more powerful motors on the aerators to the treatment lagoon to address compliance with the Ammonia Nitrogen effluent limit.
4. On September 12, 2003, the DEQ received notice that the Town accepted a bid to begin an inflow and infiltration study of the Facility’s sewerage conveyance system. The study will be used to address the high influent flows to the Facility, which exceed the design flow capacity during periods of heavy rainfall.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted in Va. Code § 62.1-44.15(8a), orders Victoria, and Victoria consents, to perform the actions contained in Appendix A of this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Victoria, for good cause shown by Victoria, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including, but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations that occur after this Order is issued; (2) seeking subsequent remediation of the Facility as may be authorized by law; or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect enforcement actions by other state, local, or federal regulatory authorities, whether or not arising out of the same or similar facts.
3. For purposes of this Order and subsequent actions with respect to this Order, Victoria admits to the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Victoria consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Victoria declares it has received fair and due process under the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, and the State Water Control Law, and waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.

6. Failure by Victoria to comply with any of the terms of this Order shall constitute a violation of an Order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Victoria shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or other occurrence. Victoria shall demonstrate that such circumstances resulting in noncompliance were beyond the control of Victoria and not due to a lack of good faith or diligence. Victoria shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.Failure to so notify the Regional Director within 24 hours of learning of any condition listed above, which Victoria intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.
9. This Order is binding on the parties hereto, their successors in interest, designees, and assigns jointly and severally.
10. This Order shall become effective upon execution by the Director, or his designee, and Victoria.

11. This Order shall continue in effect until:

- a. Victoria petitions the Regional Director to terminate the Order after it has completed all requirements of the Order, and the Regional Director determines that all requirements of the Order have been satisfactorily completed. The Director's determination that Victoria has satisfied all requirements of the Order is a "case decision" within the meaning of the Virginia Administrative Process Act; or
- b. The Director, his designee, or the Board may terminate this Order in his or its sole discretion upon 30 days written notice to Victoria.

Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Victoria from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By his signature below, Victoria consents to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2004.

Robert G. Burnley, Director
Department of Environmental Quality

Victoria consents to the issuance of this Order.

Date: _____ By: _____
Carl Ashworth, Town Manager, Town of Victoria

Commonwealth of Virginia

City/County of _____

The foregoing document was signed and acknowledged before me this _____ day

of _____, 2004, by Carl Ashworth, Town Manager, Town of Victoria.

Notary Public

My commission expires: _____.

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Appendix A

The Town of Victoria shall:

1. Complete an inflow and infiltration (“I and I”) study of the Town’s sewerage conveyance system by June 30, 2004, and submit the results to DEQ for verification by July 30, 2004. The I and I study shall include, at a minimum, the following:
 - a. A public information program;
 - b. Sewerage transmission line integrity testing (i.e., robotic TV monitoring, segments smoke testing, etc.);
 - c. Evaluation of security and leakage for all pump stations, manhole covers, and other sewerage transmission lines access points;
 - d. Identification of flow metering locations and flow metering methodology;
 - e. Conducting day and night wet and dry weather flow metering;
 - f. Assembly of a sewerage transmission system configuration map with pipe sizing, pump stations, manhole locations, and graphic reference points; and
 - g. Analysis and project report.
2. Based on the I and I study, Victoria shall identify and prioritize I and I projects, which will prevent future exceedances of the Facility’s design flow capacity.
3. Victoria shall develop a schedule and a financial plan (“Victoria Plan of Action”) to complete the projects identified in item number 2 of this Appendix, and submit the Victoria Plan of Action to DEQ for review and approval by August 30, 2004. After DEQ approves the Victoria Plan of Action it shall be incorporated by reference and become an enforceable part of this Order.

4. All correspondence related to this Order unless otherwise specified herein shall be sent to:

Harry F. Waggoner

Virginia Department of Environmental Quality

South Central Regional Office

7705 Timberlake Road

Lynchburg, Virginia 24502

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